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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,542	10/16/2003	Shigeyuki Maruyama	990250B	6009

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EXAMINER

KOBERT, RUSSELL MARC

ART UNIT PAPER NUMBER

2829

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,542

Applicant(s)

MARUYAMA ET AL.

Examiner

Russell M Kobert

Art Unit

2829

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16, 18-22 and 24-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 16, 18-22 and 24-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/268,338.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- (1) The species of Figure 3;
- (2) The species of Figure 4;
- (3) The species of Figure 5;
- (4) The species of Figure 25;
- (5) The species of Figure 3 modified by Figure 18;
- (6) The species of Figure 3 modified by Figure 19;
- (7) The species of Figure 3 modified by Figure 20;
- (8) The species of Figure 3 modified by Figure 21;
- (9) The species of Figure 3 modified by Figures 22A and 22B;
- (10) The species of Figure 4 modified by Figure 18;
- (11) The species of Figure 4 modified by Figure 19;
- (12) The species of Figure 4 modified by Figure 20;
- (13) The species of Figure 4 modified by Figure 21;
- (14) The species of Figure 4 modified by Figures 22A and 22B;
- (15) The species of Figure 5 modified by Figure 18;
- (16) The species of Figure 5 modified by Figure 19;
- (17) The species of Figure 5 modified by Figure 20;
- (18) The species of Figure 5 modified by Figure 21;
- (19) The species of Figure 5 modified by Figures 22A and 22B;
- (20) The species of Figure 25 modified by Figure 18;
- (21) The species of Figure 25 modified by Figure 19;
- (22) The species of Figure 25 modified by Figure 20;
- (23) The species of Figure 25 modified by Figure 21;

- (24) The species of Figure 25 modified by Figures 22A and 22B;
- (25) The species of Figure 3 modified by Figure 23;
- (26) The species of Figure 4 modified by Figure 23;
- (27) The species of Figure 5 modified by Figure 23;
- (28) The species of Figure 25 modified by Figure 23;
- (29) The species of Figure 3 modified by Figure 18 further modified by Figure 23;
- (30) The species of Figure 3 modified by Figure 19 further modified by Figure 23;
- (31) The species of Figure 3 modified by Figure 20 further modified by Figure 23;
- (32) The species of Figure 3 modified by Figure 21 further modified by Figure 23;
- (33) The species of Figure 3 modified by Figures 22A and 22B further modified by Figure 23;
- (34) The species of Figure 4 modified by Figure 18 further modified by Figure 23;
- (35) The species of Figure 4 modified by Figure 19 further modified by Figure 23;
- (36) The species of Figure 4 modified by Figure 20 further modified by Figure 23;
- (37) The species of Figure 4 modified by Figure 21 further modified by Figure 23;
- (38) The species of Figure 4 modified by Figures 22A and 22B further modified by Figure 23;

(39) The species of Figure 5 modified by Figure 18 further modified by Figure 23;

(40) The species of Figure 5 modified by Figure 19 further modified by Figure 23;

(41) The species of Figure 5 modified by Figure 20 further modified by Figure 23;

(42) The species of Figure 5 modified by Figure 21 further modified by Figure 23;

(43) The species of Figure 5 modified by Figures 22A and 22B further modified by Figure 23;

(44) The species of Figure 25 modified by Figure 18 further modified by Figure 23;

(45) The species of Figure 25 modified by Figure 19 further modified by Figure 23;

(46) The species of Figure 25 modified by Figure 20 further modified by Figure 23;

(47) The species of Figure 25 modified by Figure 21 further modified by Figure 23;

(48) The species of Figure 25 modified by Figures 22A and 22B further modified by Figure 23;

(49) The species of Figure 3 modified by Figure 26;

(50) The species of Figure 4 modified by Figure 26;

(51) The species of Figure 5 modified by Figure 26;

(52) The species of Figure 25 modified by Figure 26;

(53) The species of Figure 3 modified by Figure 18 further modified by Figure 26;

(54) The species of Figure 3 modified by Figure 19 further modified by Figure 26;

(55) The species of Figure 3 modified by Figure 20 further modified by Figure 26;

(56) The species of Figure 3 modified by Figure 21 further modified by Figure 26;

(57) The species of Figure 3 modified by Figures 22A and 22B further modified by Figure 26;

(58) The species of Figure 4 modified by Figure 18 further modified by Figure 26;

(59) The species of Figure 4 modified by Figure 19 further modified by Figure 26;

(60) The species of Figure 4 modified by Figure 20 further modified by Figure 26;

(61) The species of Figure 4 modified by Figure 21 further modified by Figure 26;

(62) The species of Figure 4 modified by Figures 22A and 22B further modified by Figure 26;

(63) The species of Figure 5 modified by Figure 18 further modified by Figure 26;

(64) The species of Figure 5 modified by Figure 19 further modified by Figure 26;

(65) The species of Figure 5 modified by Figure 20 further modified by Figure 26;

(66) The species of Figure 5 modified by Figure 21 further modified by Figure 26;

(67) The species of Figure 5 modified by Figures 22A and 22B further modified by Figure 26;

(68) The species of Figure 25 modified by Figure 18 further modified by Figure 26;

(69) The species of Figure 25 modified by Figure 19 further modified by Figure 26;

(70) The species of Figure 25 modified by Figure 20 further modified by Figure 26;

(71) The species of Figure 25 modified by Figure 21 further modified by Figure 26;

(72) The species of Figure 25 modified by Figures 22A and 22B further modified by Figure 26;

(73) The species of Figures 27A, 27B and 28;

(74) The species of Figure 29A;

(75) The species of Figures 29B and 30;

(76) The species of Figure 31;

(77) The species of Figure 32;

(78) The species of Figure 33A and 33B;

(79) The species of Figure 34;

(80) The species of Figure 35;

(81) The species of Figure 36;

- (82) The species of Figure 49;
- (83) The species of Figure 50;
- (84) The species of Figure 51;
- (85) The species of Figure 52;
- (86) The species of Figure 53A and 53B.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. Upon election of species 1 through 72 mentioned supra, further election of sub-species is required as follows (wherein the term "species" is understood to mean "sub-species"):

This application contains claims directed to the following patentably distinct species of the claimed invention:

- (1) The species of Figures 1 and 2;
- (2) The species of Figures 6A and 6B;
- (3) The species of Figures 7A and 7B;
- (4) The species of Figures 8A and 8B;
- (5) The species of Figures 9A and 9B;
- (6) The species of Figures 10A and 10B;
- (7) The species of Figures 11A and 11B;
- (8) The species of Figures 12A and 12B;
- (9) The species of Figures 13A and 13B;
- (10) The species of Figures 14A and 14B;
- (11) The species of Figures 15A and 15B;
- (12) The species of Figures 16A and 16B;
- (13) The species of Figure 17.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim

is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. Upon election of species 73 through 86 mentioned supra, further election of sub-species is required as follows (wherein the term "species" is understood to mean "sub-species"):

This application contains claims directed to the following patentably distinct species of the claimed invention:

- (1) The species of Figure 37A;
- (2) The species of Figure 37B;
- (3) The species of Figures 38A and 38B;
- (4) The species of Figures 39A and 39B;
- (5) The species of Figures 40A and 40B;
- (6) The species of Figures 41A and 41B;

- (7) The species of Figures 42A and 42B;
- (8) The species of Figures 43A and 43B;
- (9) The species of Figures 44A and 44B;
- (10) The species of Figures 45A and 45B;
- (11) The species of Figures 46A and 46B;
- (12) The species of Figures 47A and 47B;
- (13) The species of Figure 48.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.


4. A telephone call was made to the Office of the Attorney of Record on July 26, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

5. A shortened statutory period for response to this action is set to expire one month(s) from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Kobert whose telephone number is (571) 272-1963. The Examiner's Supervisor, Kammie Cuneo, can be reached at (571) 272-1957. For an automated menu of Tech Center 2800 phone numbers call (571) 272-2800.



Russell M. Kobert
Patent Examiner
Group Art Unit 2829
July 26, 2004



DAVID ZARNEKE
PRIMARY EXAMINER
7/30/04